



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

SUBJECT: ANNUAL SUMMARY OF LABOR
NEGOTIATIONS

FROM: Debra Figone

DATE: January 14, 2013

RECOMMENDATION

Accept staff report and public input on the Annual Summary of Upcoming Labor Negotiations.

OUTCOME

As recommended by the Sunshine Reform Taskforce and approved by the City Council, this report will provide the public an opportunity to have information related to labor negotiations in advance of the commencement of negotiations and to provide input to the City Council.

INTRODUCTION

In approaching the upcoming labor negotiations, the City realizes the cumulative impact of the difficult sacrifices that have been made by the City's employees, and the effect these sacrifices have had on our employees and the community they serve. As an organization, the City has encountered tremendous upheaval and employees have continually risen to the occasion to help the City deliver services to the community despite the fiscal constraints the City has been dealt. The City is cognizant of the commitment to public service exhibited, and continues to be exhibited, by our employees.

As the City moves forward with the realities of the very difficult decisions made necessary to maintain a fiscally viable City, and the difficulties that may be encountered ahead, the City and its workforce must reexamine and reconsider expectations given the drastically reduced resources and in light of the services the City must provide its citizens. While the City must continue its pursuit of balancing the long-term need of eliminating the General Fund structural deficit, bringing revenues and expenditures into alignment, with the immediate service delivery needs of the community, the City will also be mindful of the needs of the workforce for stability and clarity regarding the paths the City will take.

BACKGROUND

Pursuant to the Public Information provisions of the Sunshine Reform Task Force Phase 1 Report approved by the City Council on August 21, 2007, staff is to bring forward to the City Council in open session on an annual basis a summary of labor negotiations for the upcoming year. The purpose of this process is to provide an opportunity for the public to be informed about the City's labor negotiations before the City commences negotiations and to provide the City Council input before the negotiations begin.

This memo provides a summary of background information related to labor negotiations, a summary of bargaining unit information, personnel cost information, and a summary of labor negotiations cost saving strategies.

The following chart shows the City's bargaining units, total Full Time Equivalents (FTEs¹) for the 2012-2013 Adopted Budget represented by each bargaining unit and the expiration of their most recent contract. In addition to the bargaining units listed below, there are approximately 241 FTEs in the unrepresented employee groups known as Units 99, 81 and 82.

| Bargaining Unit/Union | FTEs² | Contract Expiration |
|--|-------------------------|----------------------------|
| International Brotherhood of Electrical Workers, Local 332 (IBEW) | 73 | 06/30/11 |
| International Union of Operating Engineers, Local #3 (OE#3) | 664 | 06/30/11 |
| Municipal Employees' Federation, AFSCME Local 101 (MEF) | 1,851 | 06/30/11 |
| Confidential Employees' Organization, AFSCME Local 101 (CEO) | 189 | 09/18/11 |
| Association of Legal Professionals of San Jose (ALP) | 36 | 06/30/12 |
| San Jose Police Officers' Association (POA) | 1,107 | 06/30/13 |
| San Jose Fire Fighters, IAFF, Local 230 (IAFF) | 646 | 06/30/13 |
| Association of Building, Mechanical and Electrical Inspectors (ABMEI) | 67 | 06/30/13 |
| Association of Engineers and Architects, IFPTE Local 21 (AEA) Unit 41/42 and Unit 43 | 214 | 06/30/13 |
| Association of Maintenance Supervisory Personnel, IFPTE Local 21 (AMSP) | 78 | 06/30/13 |
| City Association of Management Personnel, IFPTE Local 21 (CAMP) | 329 | 06/30/13 |
| TOTAL | 5,254 | |

¹ Full Time Equivalents (FTEs) are the combined total number of budgeted full-time positions. For example, one full-time position equals one FTE. Similarly, two half-time positions equal one FTE.

² **Source:** 2012-2013 Adopted Budget; does not include 241 unrepresented positions.

Over the past decade, the City has endured ten consecutive years of General Fund budget shortfalls totaling \$680 million and eliminated over 2,000 positions (all funds).³ These shortfalls were caused by different factors, including the ever increasing costs associated with personnel and retirement. In order to balance the budget during this time period, the City, its workforce, and its employees had to endure very difficult decisions, including reductions in total compensation, resources, and services. Even with the sacrifices made by employees, including foregoing scheduled wage increases as well as a significant reduction in total compensation, the City and its workforce were not spared from reducing the workforce by approximately 26% over the last ten years so that staffing is now at 1988-1989 levels.⁴

For Fiscal Year 2011-2012, the City reached agreement with seven (7) bargaining groups. The City/ALP agreement expired on June 30, 2012, and negotiations are ongoing between the City and ALP; the remaining six (6) contracts will expire on June 30, 2013. In May 2011, the City Council imposed terms and conditions for IBEW, OE#3, MEF and CEO.

During the negotiations for Fiscal Year 2011-2012, multiple cost savings strategies were realized, including meeting the goal of reducing the total ongoing employee compensation for all City employees by ten percent (10%) and rolling back any general wage increases received in Fiscal Year 2010-2011, as well as achieving the healthcare changes recommended by the City Auditor and approved by the City Council in August 2009. "Total compensation" is the total cost to the City of pay and benefits, including base pay, retirement contributions, health insurance and other benefits. Additionally, the City realized changes to the disability leave supplement, overtime calculation, vacation sellback, and the salary-step structure. Furthermore, the City was also able to come to an agreement in September and October of 2012 with several bargaining units related to the elimination of sick leave payout for employees hired after September 30, 2012.

The following chart demonstrates the progress in the additional areas of reform included in the Council's previous direction:

³ Source: [2012-2013 City Manager's Budget Request and Five-Year 2013-2017 Forecast, dated February 29, 2012.](#)

⁴ Source: [2012-2013 City Manager's Budget Request and Five-Year 2013-2017 Forecast, dated February 29, 2012.](#)

| Employee Unit | Ongoing Total Compensation Reduction | Modify Step Increases | Disability Leave Supplement | Sick leave Payout | Modify Overtime Calculation | Vacation Sellback |
|------------------------------|--------------------------------------|-----------------------|-----------------------------|--|-----------------------------|---------------------|
| AEA | -10% | N/A | Eliminated 06/24/12 | Eliminated (new employees only) 09/30/12 | N/A | Eliminated 12/23/12 |
| ALP | -10% | N/A | In Negotiation | In Negotiation | N/A | In Negotiation |
| AMSP | -10% | N/A | Eliminated 06/24/12 | Eliminated (new employees only) 09/30/12 | N/A | Eliminated 12/23/12 |
| CAMP | -10% | N/A | Eliminated 06/24/12 | Eliminated (new employees only) 09/30/12 | N/A | Eliminated 12/23/12 |
| ABMEI | -10% | Reduced to 2.5% | Eliminated 06/24/12 | Eliminated (new employees only) 09/30/12 | Status Quo | N/A |
| IBEW | -10% | Reduced to 2.5% | Reduced to 3 months | Eliminated 01/01/12 | Actual Hours Worked Only | N/A |
| OE#3 | -10% | Reduced to 2.5% | Reduced to 3 months | Eliminated 01/01/12 | Actual Hours Worked Only | N/A |
| MEF | -10% ⁵ | Reduced to 2.5% | Reduced to 3 months | Eliminated 01/01/12 | Actual Hours Worked Only | N/A |
| CEO | -10% ⁶ | Reduced to 2.5% | Reduced to 3 months | Eliminated 01/01/12 | Actual Hours Worked Only | N/A |
| POA | -10% | Status Quo | Status Quo | In Negotiation/Mediation | Status Quo | N/A |
| IAFF, Local 230 | -10% | Status Quo | Status Quo | In Negotiation/Mediation | Status Quo | N/A |
| Unit 99/Unit 82 ⁷ | -10% | N/A | Eliminated 06/24/12 | Eliminated (new employees only) 09/30/12 | N/A | Eliminated 12/23/12 |

Subsequent to negotiations for successor agreements for Fiscal Year 2012-2013, the City engaged in extensive negotiations and mediation sessions with all bargaining groups regarding retirement reform and a related ballot measure. On May 24, 2011, the City Council approved the Fiscal Reform Plan which included recommendations for retirement benefit reforms. The City Council also provided direction to staff to prepare a draft ballot measure that would include various proposed changes to the City Charter regarding retirement benefits for new employees, current employees and current retirees. This ballot measure was approved on March 6, 2012, for the June 2012 election, and was approved by the voters by approximately 69.5% on June 5, 2012. Additionally, on June 12, 2012, City Council imposed new pension benefits for new employees ("Tier 2"), the requirement to enroll in Medicare Part A and B once eligible, and making available a new low cost healthcare plan, on the City's non-sworn bargaining units.

⁵ Also achieved Council direction to roll back 2% General Wage Increase received in Fiscal Year 2010-2011.

⁶ Also achieved Council direction to roll back 2% General Wage Increase received in Fiscal Year 2010-2011.

⁷ Unit 99/Unit 82 are comprised of unrepresented employees whose benefits are determined by the City Council through the recommendations of the City Manager.

ANALYSIS

Personnel Costs

As a service organization, the great majority of the City's costs pay for the employees who provide those services. In previous years, the City has experienced a significant increase in those costs, although many of the changes made have mitigated these increased costs. The City appreciates the collaboration of those bargaining units who have agreed to these changes, and recognize the sacrifices made on the part of the City's employees. It is projected that increases in personnel costs will continue. From Fiscal Year 2002-2003 Adopted Budget to Fiscal Year 2012-2013 Adopted Budget, the average cost per employee increased by 60.97% from \$85,897 in the Fiscal Year 2002-2003 Adopted Budget to \$138,273 in the Fiscal Year 2012-2013 Adopted Budget, despite achieving an ongoing 10% total compensation reduction effective Fiscal Year 2011-2012. During that same timeframe, the City's workforce has been reduced by approximately 26%, from 7,418 to 5,495.⁸

For example, the City faced a \$118 million shortfall for Fiscal Year 2010-2011. Despite the concessions made by employees, 185 full-time and 21 part-time employees were laid off, including 49 Fire Fighters.⁹ For Fiscal Year 2011-2012, the City had to address another General Fund shortfall of \$115 million. Yet despite achieving a 10% total compensation reduction for *all* employees, 140 employees were nonetheless laid off, including 66 Police Officers.¹⁰ Absent this sacrifice by the workforce, additional significant layoffs and resulting service reductions would have had to occur. This is illustrative of the difficult fiscal situation faced by the City and its employees that, regardless of the significant sacrifices made by employees, the City could not avoid a reduction in its workforce.

The following chart shows the difference in budgeted costs of base payroll, retirement benefits, healthcare benefits and other benefits from Fiscal Year 2002-2003 to Fiscal Year 2012-2013 Adopted Budget costs.

⁸ **Source:** City of San Jose Salary and Fringe Benefit Costs by Bargaining Unit & Fund for 2002-2003 through 2012-2013 Adopted Budget.

⁹ **Source:** [Information Memo entitled "Background on Compensation Reductions," dated September 7, 2012.](#)

¹⁰ **Source:** [2011-2012 Adopted Budget.](#)

| Citywide Salary & Benefits (All Funds) ^{11 12} | | | |
|--|-----------------------------|-----------------------------|----------------|
| | 2002-2003 Adopted Budget | 2012-2013 Adopted Budget | Difference |
| BASE PAYROLL | \$516,923,469 | \$447,193,638 | -13.49% |
| RETIREMENT BENEFITS | \$73,488,586 | \$244,951,479 | 233.32% |
| Federated Retirement/Other ¹³ | \$46,105,680 | \$123,897,420 | 168.72% |
| Police/Fire Retirement | \$27,382,906 | \$121,054,059 | 342.08% |
| HEALTH/DENTAL BENEFITS | \$37,418,540 | \$58,899,334 | 57.67% |
| OTHER BENEFITS (Unemployment and Other Miscellaneous Benefits) | \$9,329,611 | \$8,697,147 | -6.78% |
| TOTAL (ALL BENEFITS) | \$120,236,737 | \$312,647,960 | 160.03% |
| GRAND TOTAL | \$637,160,206 | \$759,841,598 | 19.25% |
| Average Total Cost Per FTE | \$85,897 | \$138,273 | 60.97% |
| TOTAL FTE | 7,418 | 5,495 | -25.92% |

As noted in the chart above, there was an approximate 342.08% increase in costs for Police and Fire retirement benefits compared to an approximate 168.72% increase in the Federated plan covering other City employees.

Additionally, it is worth noting that if the city were to provide total compensation increases for all City employees, the cost would be as follows:¹⁴

| | 1% Total Compensation Increase | | 10% Total Compensation Increase | |
|---------------------|--------------------------------|--------------------|---------------------------------|---------------------|
| | General Fund | All Funds | General Fund | All Funds |
| IAFF Local 230 | \$1,353,000 | \$1,353,000 | \$13,530,000 | \$13,520,000 |
| POA | \$2,210,000 | \$2,218,000 | \$22,100,000 | \$22,180,000 |
| Total | \$3,563,000 | \$3,571,000 | \$35,630,000 | \$35,710,000 |
| Non-Sworn Employees | \$2,370,000 | \$4,389,000 | \$23,700,000 | \$43,890,000 |
| Grand Total | \$5,933,000 | \$7,960,000 | \$59,330,000 | \$79,600,000 |

¹¹ **Source:** City of San Jose Salary and Fringe Benefit Costs by Bargaining Unit & Fund for 2002-2003 through 2012-2013 Adopted Budget.

¹² **Note:** Does not include worker's compensation cost or overtime. The figures above are budgeted costs and include the cost of providing paid time off, such as vacation, holidays, personal/executive leave, and sick leave, to the extent that paid leave is taken during the fiscal year. The actual salary and benefit costs of individual employees vary.

¹³ Other Retirement benefits include retirement costs associated with part-time employees and the Mayor and City Council.

¹⁴ **Source:** 2013-2014 Base Budget as of January 10, 2013. These 1% numbers are subject to change based on future decisions of the two Retirement Boards affecting 2013-2014 City contributions for pension and OPEB costs, changes in the number of Federated Tier 2 Pension Plan employees, updates to healthcare and other benefit plan enrollments, and other potential changes to personal services costs.

As shown above, a 1% increase in total compensation for all City employees would be an estimated \$5.9 million in the General Fund (\$8.0 million in all funds) while a 10% total compensation increase would result in an approximate increased cost of \$59 million in the General Fund (\$79.6 million in all funds); it should be noted that this does not include any impacts of increased payroll on the retirement system. For perspective, given the current contingent of sworn and non-sworn positions, \$5.9 million in the General Fund is the equivalent to funding approximately 40 positions in the General Fund.

2013-2014 Cost Savings Strategies which are Subject to Meet and Confer With the City's Bargaining Units

As noted above, in approaching the upcoming labor negotiations, the City is cognizant of the cumulative impact of the difficult sacrifices that have been made by the City's employees, and the effect these sacrifices have had on our employees and the community they serve. While the City must continue its pursuit of balancing the long-term need of eliminating the General Fund structural deficit, bringing revenues and expenditures into alignment, with the immediate service delivery needs of the community, the City will also be mindful of the needs of the workforce for stability and clarity regarding the paths the City will take.

The work force capacity for additional significant changes will be a consideration when recommendations are made to the City Council on any cost savings strategies subject to the meet and confer process for upcoming negotiations. There are also potential operational issues, systems changes, and streamlining/efficiency opportunities that may be subject to the meet and confer process that may need to be addressed in the upcoming negotiations. These will continue to be discussed with the affected Departments and will be brought forward to City Council for recommendations, if applicable.

Labor Negotiations Background

The City negotiates in accordance with various laws, regulations and City policies, as explained below.

Guiding Principles for Labor Negotiations

In June of 2007, the City Council approved guiding principles for labor negotiations, which aligned the approach to bargaining with the priorities established by both the Council and the community. The Guiding Principles for Labor Negotiations are attached.

Council Policy- Labor Negotiation Guidelines

In March of 2008, the City Council approved a Council Policy on Labor Negotiation Guidelines, which applies to the Mayor, members of the City Council and Mayor and Council Staff. The purpose of the policy is to set guidelines for the City Council and Council staff to ensure labor negotiations are conducted in good faith and to avoid actions that would circumvent the City's designated bargaining team. The Council Policy- Labor Negotiation Guidelines are attached.

Meyers-Milias-Brown Act (MMBA)

The MMBA governs the labor-management relations in California local government, including cities, counties, and most special districts. The MMBA provides the right to organize, sets guidelines for such things as the scope of representation and the requirement to meet and confer in good faith.

The MMBA states that the governing body of a public agency shall meet and confer in good faith regarding wages, hours and other terms and conditions of employment with representatives of recognized employee organizations (i.e. unions/bargaining units).

Although it is commonly referred to as an obligation to "negotiate", the MMBA refers to the obligation to "meet and confer" in good faith. The MMBA defines meeting and conferring in good faith as having the mutual obligation to personally meet and confer promptly upon request by either party and continue for a reasonable period of time in order to exchange freely information, opinions, and proposals and to endeavor to reach agreement on matters within the scope of representation.

The MMBA defines the scope of representation as all matters related to employment conditions and employer-employee relations, including, but not limited to, wages, hours and other terms and conditions of employment, except, however, that the scope of representation shall not include consideration of the merits, necessity, or organization of any service or activity provided by law or executive order.

City of San Jose Employer-Employee Relations Resolution (#39367)

In addition to the MMBA, the City of San Jose has local rules that govern collective bargaining between the City and the recognized bargaining units that represent City employees.

Section 21 of Resolution #39367 designates the City Manager as the Municipal Employee Relations Officer. As such, the City Manager is the City's principal representative in all matters of employer-employee relations, with authority to meet and confer in good faith on matters within the scope of representation including wages, hours and other terms and conditions of employment. Resolution #39367 also authorizes the City Manager to delegate these duties and responsibilities to an Employee Relations Officer or other members of his/her staff.

Negotiation/"Meet and Confer" Process

As mentioned above, under the Meyers-Milias-Brown Act (MMBA), the City has an obligation to "meet and confer" in good faith with the City's bargaining units regarding wages, hours and other terms and conditions of employment. The City Manager has delegated the authority to meet and confer to the Office of Employee Relations. The negotiations for a new agreement typically commence prior to the expiration of an existing Memorandum of Agreement (MOA). The City and the Union each establish a negotiating team. Resolution #39367 provides for paid release time for up to three bargaining unit team members for time spent during the negotiation meetings that coincide with the employees' normal work hours.

During the negotiations, the City team meets with the union team to discuss various issues and interests for the new contract. The City's negotiating team is provided negotiation authorization by the City Council through the City Manager. Proposals are exchanged related to the issues presented during the negotiations. Tentative agreements are often reached on individual issues as part of the negotiation process and ultimately, a tentative agreement is reached on the entire contract. All tentative agreements are contingent upon ratification of the union membership and approval of the City Council in open session.

If negotiations do not result in a tentative agreement on a new contract, Resolution #39367 states that impasse procedures may be invoked by either party and provides for mediation as the impasse procedure. If mediation assists the parties in reaching an agreement, it is still contingent upon ratification of the union membership and approval of the City Council in open session.

Impasse Procedures – Fact-Finding – for Local Public Employee Organizations

As a result of the passage of Assembly Bill 646 (AB646), effective January 1, 2012, local government agencies, like the City of San Jose, are required to include fact finding in their impasse procedures for any bargaining unit requesting to do so that is not subject to binding interest arbitration; it is worth noting that fact finding can be requested solely by the bargaining unit and not the agency. Additionally, Assembly Bill 1606 (AB1606) was passed in 2012 and provided additional requirements regarding fact finding. Previously, if the parties reached an

impasse and have exhausted any applicable impasse procedures, a public agency had the option to unilaterally implement its last, best, and final offer; however, fact finding has added additional layers of time and complexity. The notable changes wrought by fact finding includes the agency holding a public hearing on the impasse; a written, non-binding, findings of fact and recommended terms of settlement issued by the fact finding panel; and the prohibition on a public agency from unilateral implementation of its last, best, and final offer until certain time criteria are met. Fact finding, if invoked by a bargaining unit, will increase the costs as well as increase the use of resources and time associated with the bargaining process. In addition, revisions to Resolution #39367 will be necessary to reflect the addition of fact finding to the process, and such revisions will be presented to City Council for discussion in the near future.

It is the goal of both parties to reach a negotiated agreement. However, the MMBA states that a public agency may, after impasse procedures have been exhausted, including fact finding if invoked, implement its last, best, and final offer. In addition, after impasse procedures have been concluded and an agreement has not been reached on a new contract, the bargaining unit has the right to strike and/or engage in other protected concerted activity, except for police officers and fire fighters who do not have the right to strike.

For the San Jose Police Officers' Association (POA) and the San Jose Fire Fighters (IAFF, Local 230), if the parties fail to reach agreement after participating in mediation, City Charter Section 1111, provides for an Arbitration Board, comprised of a City representative, Union representative, and a neutral arbitrator to decide each issue by majority vote. The results of arbitration are binding. The voters of San Jose passed a Measure in the November 2010 election that amends City Charter Section 1111. By passage of this Measure, the City Charter has been amended to limit outside arbitrators from: basing awards to employees primarily on the City's ability to pay; creating any unfunded liability for the City; increasing police and firefighter compensation more than the rate of increase in General Fund revenues; granting retroactive benefits; and depriving or interfering with the discretion of the Police or Fire Chief to make managerial, operational, or staffing decisions.

2013 Labor Negotiations

In January 2013, the City anticipates beginning negotiations on successor agreements with those bargaining units whose current agreement expires on June 30, 2013, including:

- *Association of Building, Mechanical and Electrical Inspectors (ABMEI)* represents approximately 67 Full Time Equivalents (FTEs), including the classifications of Building Inspector and Building Inspector, Supervisor.
- *Association of Engineers and Architects, IFPTE Local 21 (AEA)* represents approximately 214 Full Time Equivalents (FTEs), including the classifications of Engineer, Architect, Senior Engineer, and Senior Architect.

- *Association of Maintenance Supervisor Personnel, IFPTE Local 21 (AMSP)* represents approximately 78 Full Time Equivalents (FTEs), including the classifications of Building Maintenance Superintendent and Building Services Supervisor.
- *City Association of Management Personnel, IFPTE Local 21 (CAMP)* represents approximately 329 Full Time Equivalents (FTEs), including the classifications of Senior Analysts and Program Managers.
- *San Jose Fire Fighters, IAFF, Local 230 (IAFF)* represents approximately 646 Full Time Equivalents (FTEs), including the classifications of Fire Fighters, Fire Engineers, Fire Captains, and Battalion Chiefs.
- *San Jose Police Officers' Association (POA)* represents approximately 1,107 Full Time Equivalents (FTEs) in the classifications of Police Officer, Police Sergeant, Police Lieutenant, Police Captain, and Deputy Chiefs of Police.

In addition, the following bargaining units currently have expired agreements:

- *Association of Legal Professionals (ALP)* is a bargaining unit that was formed in 2009 and represents approximately 36 Full Time Equivalents (FTEs), including the classifications of Deputy City Attorney and Senior Deputy City Attorney. The City is currently negotiating with ALP for a successor agreement as the prior agreement expired on June 30, 2012.
- *International Brotherhood of Electrical Workers (IBEW)* represents approximately 73 Full Time Equivalents (FTEs), including classifications of Electrician and Senior Electrician. IBEW's contract expired June 30, 2011. In May 2011, the City Council imposed terms and conditions for IBEW. The City and IBEW began negotiations on a successor agreement in October 2012.
- *Operating Engineers, Local No. 3 (OE#3)* represents approximately 664 Full Time Equivalents (FTEs), including the classifications of Maintenance Assistant, Park Ranger and Parking and Traffic Control Officer. OE#3's contract expired June 30, 2011. In May 2011, the City Council imposed terms and conditions for OE#3.
- *Municipal Employees' Federation/AFSCME Local 101 (MEF)* represents approximately 1,851 Full Time Equivalents (FTEs), including the classifications of Librarian, Code Enforcement Inspectors and Recreation Leaders. MEF's contract expired June 30, 2011. In May 2011, the City Council imposed terms and conditions for MEF. The City and MEF began negotiations on a successor agreement in December 2012.
- *Confidential Employees' Organization/AFSCME Local 101 (CEO)* represents approximately 189 Full Time Equivalents (FTEs), including the classifications of Analyst and Administrative Assistant. CEO's contract expired September 18, 2011. In May

2011, the City Council imposed terms and conditions for CEO. The City and CEO began negotiations on a successor agreement in December 2012.

Transparency/Sunshine Reform

These annual reports are to provide the public with information related to labor negotiations, prior to that authorization being given and the negotiation process being completed in order to provide an opportunity for the public to give input to the City Council.

Also as part of the Sunshine Reform, the City is providing the public with much more information on the City's internet than it has in the past. This includes information related to ongoing negotiations, costs of benefits and other payroll costs. The link to this website is: <http://www.sanjoseca.gov/index.aspx?nid=186>.

CONCLUSION

There is no question that in emerging from ten years of budget shortfalls in the General Fund and the fiscal challenges in several other City funds, combined with the uncertainty regarding major cost factors for 2013-2014, the City Council will continue to be faced with very difficult decisions. A major consideration this year will be continuing the efforts to date to control or reduce personnel costs in accordance with the Fiscal Reform Plan in order to halt the decline in services and eventually create capacity to begin the restoration of services. It is hoped that we can achieve this while also keeping in mind the significant sacrifices City employees have already made and the City's need to maintain a qualified and effective work force. The increased volume and complexity of labor-related issues as well as the expansion of impasse procedures under AB646 and AB1606, make it essential that appropriate resources are allocated to the City's labor relations to ensure the best possible outcome for the City, its residents and employees.

EVALUATION AND FOLLOW-UP

When Tentative Agreements are reached with the bargaining units during negotiations for a new collective bargaining agreement, they will be brought to Council in open session for approval. Specific negotiation direction will be received in closed session.

PUBLIC OUTREACH/INTEREST

- ☐ **Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater.
(Required: Website Posting)
- ☐ **Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- ☐ **Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This item is being provided in accordance with the Sunshine Ordinance and is requesting acceptance by Council on a report on upcoming Labor Negotiations. In order to provide the public with information about the City's labor negotiations, this report will be posted on the internet and will be sent out in Early Distribution. Bargaining unit representatives will be notified of this agenda item in advance. A copy will be sent to them as soon as the memo has been distributed.

COORDINATION

This memo has been coordinated with the City Attorney's Office.

CEQA

Not a project, File No. PP10-069 (a), Annual Report


Debra Figone
City Manager

For questions please contact Alex Gurza, Deputy City Manager, at 535-8155.

Attachments



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

SUBJECT: See Below

FROM: Les White

DATE: May 31, 2007

COUNCIL DISTRICT: City-Wide
SNI AREA: N/A

SUBJECT: GUIDING PRINCIPLES FOR LABOR NEGOTIATIONS

RECOMMENDATION

Approve the guiding principles for labor negotiations.

OUTCOME

Adoption of the guiding principles for labor negotiations.

BACKGROUND

In accordance with the Mayor's March Budget Message, the proposed budget for Fiscal Year 2007-2008, responds to the priorities of both the community and the City Council, while addressing the sixth consecutive year of a multi-million dollar General Fund shortfall. However, projected growth in personal service costs continues to out-pace revenue growth through Fiscal Year 2011-2012.

Personal service costs account for two-thirds of the total General Fund uses. The increase of approximately 45% in the average budgeted position cost from 2000 to present can be attributed to three main cost components: salary, health care benefits and pension benefits. Along with the budget shortfalls already predicted for the next five fiscal years and the continued increases in cost for current employee salaries and benefits, liability for post-employment health care benefits for retirees has been estimated to be as high as \$1.4 billion.

Salaries and benefits are determined through the negotiation process with the City's bargaining units. In order to address the significant issues identified above, the City should be guided by principles in labor negotiations in order to remain mindful of the service needs of the City and the continued fiscal challenges.

ANALYSIS

One of the primary functions of the City is to provide services to the community. Accordingly, 2/3 of the General Fund is allocated to personal services. However, personal services costs have risen significantly during a time of serious fiscal challenges. Fiscal Year 2007-2008 marks the sixth consecutive year of budget shortfalls, with projected shortfalls in the next four years.

As the City continues to explore innovative methods to bridge the gap between revenue and expenses, it is important to partner with our bargaining units in addressing these ongoing costs. Although it is very important to work together with our employees and bargaining unit representatives on collaborative efforts on an on-going basis, the cost of salaries and benefits of bargaining unit employees are determined through the contract negotiation process. These negotiations occur prior the expiration of the eleven agreements with the bargaining units. These agreements expire at different times and in different years.

The following guiding principles are being presented for consideration related to present and future labor negotiations:

- *Focus on the cost of total compensation¹ while considering the City's fiscal condition, revenue growth, and changes in the Consumer Price Index*
- *Use short-term and long-term strategies to address increasing benefit costs such as wellness programs, cost containment initiatives, etc.*
- *Maintain a consistent approach to bargaining through clear, ongoing communication of policy direction among City Council and City staff*
- *Remain mindful of increasing costs, including the retiree healthcare liability*
- *To the extent possible, preserve the City's market competitiveness as an employer*
- *Efficiently and effectively provide services that align with both the priorities of the community and the City Council*

These guiding principles will align the approach to bargaining with the priorities established by both the Council and the community.

PUBLIC OUTREACH/INTEREST

The purpose of this section is to describe discussions that have occurred with the public, stakeholders, community groups and/or other governmental agencies. Staff will be asked to use the following checklist to determine if items are to be considered items of "Significant Public Interest", thus requiring additional notification per the matrix below. Please note the outreach that was done.

¹ Total Compensation Includes the total costs of a position including salary, pension, and all other benefits.

- ☐ **Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- ☐ **Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- ☐ **Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

Public Outreach does not apply to the item; however, this memorandum will be placed on the City website for the June 12, 2007 Council Agenda.

COORDINATION

This memorandum has been coordinated with the City Manager's Budget Office and Office of Employee Relations. A meeting is scheduled with the City Labor Alliance (CLA) to review these principles and receive comments.

CEQA

Not a project.


LES WHITE
City Manager

For questions please contact me at 535-8111.

City of San José, California

COUNCIL POLICY

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| TITLE Council Labor Negotiation and Transparency Guidelines | PAGE 1 of 3 | POLICY NUMBER 0-39 |
| EFFECTIVE DATE March 4, 2008 | REVISED DATE January 25, 2011 | |
| APPROVED BY COUNCIL ACTION No. 75705 | 3/4/2008, Item 3.6, Res. No. 74265; 1/25/11, Item 3.2, Res. No. 75705 | |

BACKGROUND

Collective bargaining is governed by the Meyers-Milias-Brown Act (MMBA), the City of San José Employer-Employee Relations Resolution (#39367) and the City Charter. The City Charter designates the City Manager as the chief administrative officer of the City. Accordingly, Resolution #39367 delegates the authority to negotiate labor contracts on behalf of the City to the City Manager or the City Manager's designee.

Pursuant to the Meyers-Milias-Brown Act, the City has a right to insist that contract negotiations take place at the bargaining table between the designated representatives of the City and the designated representatives of the various bargaining unit employees. Members of the City Council shall not negotiate with employee representatives. Both the City and the bargaining units have an obligation under applicable laws to negotiate in good faith and not to bypass the negotiation teams.

As used in this policy, "negotiate" means to meet and confer with another to endeavor to reach agreement on matters within the scope of representation.

Unless agreed to by the City and the bargaining unit, negotiation sessions are confidential, but there is great public interest in having information about the negotiations available for public review.

PURPOSE

This policy applies only to the Mayor, members of the City Council, Mayor and Council staff, and Council Appointees.

References in this policy to members of the City Council or Council staff include the Mayor and Mayor's staff.

The purpose of this policy is to set guidelines for the City Council and Council staff to ensure labor negotiations are conducted in good faith, to avoid actions that would circumvent the City's designated bargaining team, and to provide timely and accurate information about the negotiations to the City Council and the public.

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POLICY

It is the policy of the City Council that all of its members and staff and Council Appointees shall abide by the following guidelines when the City Manager or the City Manager's designee is in negotiations with any bargaining unit:

1. Pursuant to San Jose Resolution #39367, negotiations are conducted by the City Manager through his/her designee. Accordingly, negotiations regarding potential proposals and possible settlement shall occur between the City's designated negotiator(s) and the union's designated negotiator(s).
2. Pursuant to Section 411 of the City Charter, while the Council may express its views to the City Manager, the Council shall not interfere with the execution by the City Manager of his or her authority and duty to negotiate on behalf of the City.
3. Members of the City Council or Council staff or other Council Appointees shall not negotiate with the bargaining unit representatives or persons acting on their behalf.
4. In order to avoid misunderstandings and potential unfair labor practices, unless requested by the City Manager, members of the City Council or Council staff or other Council Appointees should not discuss with any bargaining unit representative or persons acting on their behalf any matter that is a subject of the negotiations while the City and the bargaining units are engaged in the negotiation process. The negotiating process shall be defined as the time period starting with the first negotiation session until a resolution has been achieved. This provision does not apply when the City Attorney is handling litigation on matters that are subject to negotiations, interest arbitration, or when the City Attorney is contacted by a bargaining unit's designated legal counsel to discuss legal issues. The City Attorney shall notify the City Manager of any such communications to ensure coordination with the legal issues and Council direction to the City Manager for labor negotiations.
5. Nothing in this policy shall prohibit members of the City Council, Council staff or Council Appointees from listening to bargaining unit representatives or persons acting on their behalf. Members of the City Council shall not knowingly respond to or discuss any proposals or any other confidential closed session discussion.
6. Nothing in this policy shall preclude the City Manager from requesting the assistance of the City Attorney or other Council Appointees in carrying out the responsibilities as the Municipal Employee Relations Officer.
7. Members of the City Council and City Council staff shall disclose to the City Manager and to the entire City Council material facts regarding issues related to ongoing negotiations. (See Council Policy 0-32 regarding disclosure of material facts).
8. Authorization and direction to the City Manager is provided in closed or open session. If done in closed session, in order to maintain the integrity of the negotiation process, closed session discussions must remain confidential.
9. Written proposals made or received shall be posted for public review on the City's web site after the proposals have been submitted to the designated negotiators.

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10. The City Manager will provide periodic updates on labor negotiations to the City Council in open session except for elements that are required to be held confidential. These updates shall include a summary of proposals exchanged since the last update.
11. Bargaining unit representatives or persons acting on their behalf may comment on the City Manager's open session labor negotiations update. This shall be done during open session to ensure all of the Council receives the same information. The City Council may listen to these statements made in the public forum and may ask questions for clarification purposes, but shall not respond to the comments, or engage in dialogue or any other form of bargaining with the representatives.
12. Nothing in this policy shall limit, restrict, or modify any of the powers provided to Council Appointees under the City Charter.